

Reply To:  
SAGINAW OFFICE  
200 St Andrews Road  
Saginaw Michigan 48603  
969 792 9641 Telephone  
989 792 1116 Facsimile  
http://www.smithbovill.com

David B. Meyer  
dmeyer@smithbovill.com

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May 16, 2002 FCC - MAILROOM

Frankenmuth Office  
140 W Tuscola Street  
Suite B  
Frankenmuth Michigan 48734  
969 652 9923 Telephone  
989 652 3607 Facsimile

DAVID J FISHER  
DAVID B MEYER  
STEPHAN M GAUS  
ROBERTA JAREMA  
ANDREW D RICHARDS  
JAMES F TROESTER  
ANDREW D CONCANNON  
SHARON A BURGESS

Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

06-17-02  
10:11 2002  
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**Re: In the Matter of Declaratory Ruling Concerning High Speed Access to  
the Internet GN Docket No. 00-185 CS Docket No. 02-52**

Ladies and Gentlemen:

This office represents several municipalities in the Saginaw County, Michigan area. We were recently in discussion with a local cable television company which is providing broad band high speed Internet access to residents and businesses within the municipality. This letter is written in response to the public comment invitation which was contained in the order. For reasons set out below, we respectfully request that the Commission reassess its decision with respect to the consequences of state and local regulation of the high speed modem services.

Prior to the time that we received a copy of the March 14, 2002 Declaratory Ruling, we had contacted the local cable company, on behalf of our client, requesting a reduction in the high speed cable modem service on behalf of the municipality and its local library. We pointed out to the cable company that the original franchise did not include the high speed cable modem service, and that no franchise fee was being charged under the franchise. The cable company responded by sending us a copy of the Declaratory Ruling and further indicated that while it would provide a 15% discount for the service to the city and to the local library, no additional discounts would be given. It also indicated that while free cable was normally provided to libraries, the cable configuration which would permit multiple stations to be connected at the library would not be provided free to the library.

In the Declaratory Ruling beginning at paragraph 98, the commission is seeking comment on the impact, if any, which the ruling may have on local municipalities. We believe that there is a substantial impact on the local municipality, which should warrant some control by the municipality. The commission correctly points out that high speed cable installations in residential units do not pose a significant burden on the municipality. This, however, is not true of commercial/business installations. In most cases, commercial properties are not connected to the television cable; there is little need for cable television for most businesses. On the other hand, commercial properties do require high speed cable access. Each time that a commercial property receives a cable installation, the city public works department *is* required to search its records, determine the location of all underground utilities and easements, and stake the property for the cable company. This service is provided without cost, and in the past has been provided on an expedited basis so as to allow the cable company to make its installations in a timely manner. This additional burden on the municipality could be resolved if the cable franchise *was* required to be renegotiated for the addition of services. However, under the Declaratory Ruling, renegotiation is not possible.

In view of this burden, we respectfully request that the Commission reconsider its ruling and allow the franchisor and franchisee to negotiate the terms under which the high speed Internet access will be provided.

Thank you for your attention.

Very truly yours,

SMITH BOVILL, P.C.

  
DAVID B. MEYER

DBM/mmk